

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

BRET NEAL and
LINDA ROBERTSON,

Plaintiffs,

v.

URSULA WEISS and
STATE OF WASHINGTON,

Defendant.

NO: 13-CV-3006-TOR

ORDER DISMISSING CASE

BEFORE THE COURT is Plaintiff's request to file a *pro se* complaint in
forma pauperis. ECF No. 1 and 2.

DISCUSSION

By Local Rule, each United States Magistrate Judge in this District is
delegated the authority to "[r]ule upon applications to proceed *in forma pauperis*,
pursuant to 28 U.S.C. § 1915." LMR 1(a)(16). By Order dated March 14, 2013, a
United States Magistrate Judge reviewed Plaintiff Bret Neal's application to
proceed *in forma pauperis* and denied the same with leave to renew. ECF No. 3.

1 The Order explained that while Plaintiff Neal requested to proceed *in forma*
2 *pauperis*, his co-Plaintiff Linda Robertson had not submitted an application to
3 proceed *in forma pauperis*. Plaintiff Linda Robertson was allowed thirty days to
4 submit a properly completed application (or pay the full filing fee). *Id.* Thirty
5 days has long ago passed and nothing more has transpired.

6 ***In Forma Pauperis Determination***

7 *Forma pauperis* status requires two findings: (1) a finding of indigency, and
8 (2) a finding that the underlying claim has some merit. *Bradshaw v. Zoological*
9 *Soc. of San Diego*, 662 F.2d 1301, 1308 (9th Cir. 1981). Pursuant to 28 U.S.C.
10 § 1915(e)(2)(B), notwithstanding any filing fee, or any portion thereof, that may
11 have been paid, the court shall dismiss the case at any time if the court determines
12 that the action or appeal (i) is frivolous or malicious or (ii) fails to state a claim
13 upon which relief may be granted.

14 A complaint fails to state a claim upon which relief may be granted if it
15 lacks a cognizable legal theory or lacks sufficient facts to support a cognizable
16 legal theory. *Balistreri v. Pacifica Police Dept.*, 901 F.2d 696, 699 (9th Cir. 1990).
17 Plaintiff's Complaint does not state a cognizable legal theory, i.e., short plain
18 statements showing the court's jurisdiction and the grounds for relief. *See Fed.*
19 *Rule Civ. Pro. 8(a).*

1 Plaintiff Linda Robertson failed to avail herself of the opportunity to pay the
2 filing fee, show cause why prepayment would be inappropriate or submit a
3 properly completed application to proceed *in forma pauperis*.

4 **ACCORDINGLY, IT IS HEREBY ORDERED:**

5 1. Plaintiff's Application to Proceed in the District Court In Forma

6 Pauperis, ECF No. 1, is **DENIED**.

7 2. Plaintiffs' proposed Complaint, ECF No. 2, is **DISMISSED**.

8 The District Court Executive is hereby directed to enter this Order, a
9 Judgment of Dismissal, furnish copies to Plaintiffs at their last known address, and
10 **CLOSE** the file.

11 **DATED** September 3, 2013.



15
16
17
18
19
20

A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
United States District Judge